

REMARKS/ARGUMENTS

Reconsideration of the application in view of the above amendments and the following remarks is respectfully requested. Claims 1, 6-9, 12, 14-29, 34-37, 40, and 42 have been amended. Claims 1-42 are currently pending in the application.

I. CLAIM REJECTIONS--35 U.S.C. § 101

Claims 15-42 were rejected under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter.

In the Office Action, the Examiner rejected claims 15-28 under 35 U.S.C. § 101 for being directed to non-statutory subject matter. Without any admission as to the veracity of the Examiner's rejection, but rather in the interest of advancing prosecution, Applicants have amended claims 15-28 to replace each instance of "machine-readable medium" with "machine-readable storage medium". Applicants believe that this amendment addresses the Examiner's concerns. Hence, Applicants request that this rejection be withdrawn.

The Examiner also rejected claims 29-42 under 35 U.S.C. § 101. As justification for the rejection, the Examiner stated that, the claimed apparatus are software per se because "the mechanism" in the body of the claims are merely software per se, as they are not statutory. Applicants respectfully disagree with this rationale. As they currently stand, claims 29-42 recite mechanisms for performing certain functions. As is well known by those of ordinary skill in the computing arts, software per se is not a mechanism. By itself, software does not perform any function. Rather, software has to be executed by one or more processors in order for any functions to be realized. This fact is extremely well known in the computing arts. Consequently, one of ordinary skill in the computing arts would not reasonably interpret the mechanisms and

the apparatus of claims 29-42 to be software per se. Accordingly, Applicants respectfully request that this rejection be withdrawn.

II. CLAIMS REJECTION—35 U.S.C. § 112, SECOND PARAGRAPH

Claims 1-42 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter applicant regards as the invention. This objection is respectfully traversed.

As per Claim 1, the term “global operating system environment” has been amended to “operating system environment”. The term “processor set” is supported at least in paragraph [0043]. The term “set of work” is supported at least in paragraph [0056].

As per Claim 2, a global administrator is a person that can administer the entire computer system and is supported at least in paragraph [0030].

As per Claim 3, a partition administrator is a person that can administer a non-global zone (partition) and is supported at least in paragraphs [0044] - [0056].

As per Claims 6, 8, 9, 12, and 14, Applicants have amended the claims to address the Examiner's comments.

Claims 15-17, 20, 22-23, 26, 28, 29-31, 34, 36-37, 40, and 42 have been address as above.

Accordingly, Applicants respectfully request that this rejection be withdrawn.

III. CLAIM REJECTIONS—35 U.S.C. § 103

Claims 1-42 were rejected under 35 U.S.C. § 103(a) as being allegedly anticipated by Brenner et al. (*Brenner*) U.S. 6,859,926. This rejection is respectfully traversed.

Claim 1 appears as follows:

1. A machine-implemented method, comprising:
 - establishing, within an operating system environment provided by an operating system, a first operating system partition which serves to isolate processes running within the first partition from other operating system partitions within the operating system environment such that processes executing in one operating system partition do not access or affect processes in any other operating system partition;
 - associating a first partition share value with the first partition, wherein the first partition share value indicates what portion of computing resources provided by a processor set has been allocated to the first partition;
 - associating a first process group share value with a first group of one or more processes executing within the first partition, wherein the first process group share value indicates what portion of the computing resources allocated to the first partition has been allocated to the first group of one or more processes; and
 - scheduling a set of work from one of the processes in the first group of one or more processes for execution on the processor set, wherein the set of work is scheduled in accordance with a priority determined based, at least partially, upon the first partition share value and the first process group share value.

In particular, Brenner does not teach or disclose establishing, within an operating system environment provided by an operating system, a first operating system partition which serves to isolate processes running within the first partition from other operating system partitions within the operating system environment such that processes executing in one operating system partition do not access or affect processes in any other operating system partition as cited in Claim 1.

Brenner discloses grouping processes into classes, however, Brenner does not contemplate establishing operating system partitions within an operating system environment provided by an operating system such that processes executing in one operating system partition do not access or affect processes in any other operating system partition. Brenner makes no mention of such a feature.

Further, Brenner does not teach or disclose associating a first partition share value with the first partition, wherein the first partition share value indicates what portion of computing resources provided by a processor set has been allocated to the first partition and associating a

first process group share value with a first group of one or more processes executing within the first partition, wherein the first process group share value indicates what portion of the computing resources allocated to the first partition has been allocated to the first group of one or more processes as cited in Claim 1. Brenner discloses that classes are assigned a tier level and are favored for access to the system resource over higher numbered tiers. Unused or spare system resources are assigned to higher numbered tiers. (col. 6, lines 24-30) Classes within a tier are given a share of the system resource among the other classes within that tier. This means that some tiers may be denied access to (starved from) the system resource. The cited features of Claim 1 recite that a first partition share value indicates what portion of computing resources provided by a processor set has been allocated to the first partition and first process group share value indicates what portion of the computing resources allocated to the first partition has been allocated to the first group of one or more processes.

Each partition and group of processes within a partition are associated with a portion. For the partitions, the portion is a portion of computing resources provided by a processor set, while for the group of processes within a partition, the portion is a portion of the computing resources allocated to the partition that has been allocated to the group of one or more processes. In contrast to Brenner's classes which are placed in a tier and other tiers may be denied access to a system resource and classes within a tier are given a share of the system resource among the other classes within that tier. This is different than what is claimed in Claim 1.

Therefore, Brenner does not teach or disclose the invention as claimed.

Claims 1, 15, and 29 are allowable. Claims 2-14, and 16-28 and 30-42 are dependent upon independent Claims 1, 15, and 29, respectively. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. §103(a).

IV. CONCLUSION

For the foregoing reasons, Applicant submits that all of the pending claims are patentable over the art of record, including any art cited but not applied. Accordingly, allowance of all of the pending claims is hereby respectfully solicited.

The Examiner is invited to telephone the undersigned at (408) 414-1214 to discuss any issue that may advance prosecution.

No fee is believed to be due specifically in connection with this Reply. To the extent necessary, Applicant petitions for an extension of time under 37 C.F.R. § 1.136. The Commissioner is authorized to charge any fee that may be due in connection with this Reply to our Deposit Account No. 50-1302.

Respectfully submitted,

Hickman Palermo Truong & Becker LLP

Dated: May 21, 2008

/KirkDWong#43284/

Kirk D. Wong
Reg. No. 43,284

2055 Gateway Place, Suite 550
San Jose, California 95110-1089
Telephone No.: (408) 414-1214
Facsimile No.: (408) 414-1076